

Application No. 10/080,437
Response to Office Action dated January 14, 2005

REMARKS

Summary of the Office Action

Claims 1-10 and 41-60 stand rejected.

Summary of the Office Action

Claims 1-10, and 41-60 are unchanged.

Claims 61-72 are new.

Applicant requests removal of the references cited in the previous application in view of the Affidavits submitted herewith..

Remarks

The Office Action of January 14, 2005 cites *Tal* (U.S. Patent No. D416,001) as the primary reference for rejecting the pending claims. In response Applicant submits Affidavits from each inventor of the application. Applicant requests that the Examiner consider the affidavits under Rule 131, or alternatively under Rule 132.

The Affidavits establish a date of invention for the pending claims as being no later than June 1997. The Affidavits show this by (i) statements made from the inventors; and (ii) the reference to the documents entitled "Interim Meeting" and "Razor Meeting", which are dated May 13, 1997 and June 5, 1997 respectively. Drawings shown in those documents clearly show the device similar to what is shown by Figures of the pending application, including the side slot extending lengthwise on the housing with a partially exposed length.

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Also included is an Affidavit from this Attorney, attesting to what each inventor was provided in reviewing and signing the Affidavit under Rule 131 or Rule 132.

Please note that the exact same Affidavit was provided to each inventor (Elisha Tal, Jeffrey C. Hawkins, Dennis Joseph Boyle, Francis J. Canova, Amy Han, Traci Angela Neist, Robert Twiss and Madeline Francavilla). With each Affidavit, the inventors are attesting that:

- (1) They have reviewed the existing claims and the newly added claims (which are the claims pending as of November 24, 2003, in the Affidavit);
- (2) They have reviewed the cited reference, *Tal*;
- (3) It is each Inventor's assertion that the Invention was reduced to practice before October 30, 1998;
- (4) Each inventor reviewed the documents entitled "Interim Meeting" and "Razor Meeting", dated May 13, 1997 and June 5, 1997 respectively, and each inventor confirms that the documents are in fact evidence that that the Invention(s) of the currently pending claims were reduced to practice at the respective dates of those documents.

Accordingly, Applicant believes that the application should have a date of invention of June 1997. This means that *Tal* is disqualified as a reference.

In view of the Affidavits, Applicant believes this Application is in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested.

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CONCLUSION

Applicants respectfully submit that all pending claims are patentable over the art of record. Accordingly, a Notice of Allowance is requested by Applicants. Applicants urge the Examiner to telephone Applicants' attorney at (408) 551-6632 if any issues remain that preclude allowance of the application. The Office is given permission to charge any unpaid fees to Applicants' deposit account (50-1914).

Respectfully submitted,

SHEMWELL GREGORY & COURTNEY LLP

Dated: July 14, 2005


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CERTIFICATE OF MAILING/FACSIMILE TRANSMISSION

I hereby certify that this paper, and any other documents referred to as enclosed herein are being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450, or being facsimiled transmitted to the USPTO using fax number (703) 872-9306, on the date indicated below

BY: 

Van Mahamedi ON July 14, 2005